



Montana Fish, Wildlife & Parks

2300 Lake Elmo Drive
Billings MT 59105

April 13, 2012

TO: Environmental Quality Council
Director's Office, Dept. of Environmental Quality
Montana Fish, Wildlife & Parks*
 Director's Office
 Parks Division
 Fisheries Division
 Wildlife Division
 Lands Section
 Design & Construction
 Legal Unit
 Regional Supervisors
Mike Volesky, Governor's Office *
Sarah Elliott, Press Agent, Governor's Office*
Montana Historical Society, State Preservation Office
Janet Ellis, Montana Audubon Council
Montana Wildlife Federation
Montana State Library
George Ochenski
Montana Environmental Information Center
Wayne Hirst, Montana State Parks Foundation
FWP Commissioner Shane Colton*
Montana Parks Association/Our Montana (land acquisition projects)
Richard Moore, DNRC Area Manager, Southern Land Office
County Commissioners
Other Local Interested People or Groups
* (Sent electronically)

Ladies and gentlemen:

The enclosed draft Environmental Assessment (EA) has been prepared to provide a right-of-way (ROW) easement for the replacement of an existing natural gas line that delivers natural gas from Elk Basin Wyoming to the Billings area. Montana Dakota Utilities markets the natural gas to its Billings area customers. The pipeline ROW easement would be 138.1 feet long and cover 0.15 acres (50ft ROW) and would be located west of U.S Highway 72 on the Clark's Fork of the Yellowstone Fishing Access Site. Questions and/or comment may be submitted until 5 p.m., April 25, 2012 and addressed to Gary Hammond, 2300 Lake Elmo Drive, Billings, MT 59105 or emailed at ghammond@mt.gov.

Gary Hammond
Regional Supervisor
Enclosure

Montana Fish, Wildlife and Parks

2300 Lake Elmo Drive
Billings, Montana 59105

ENVIRONMENTAL ASSESSMENT CHECKLIST

PART 1. PROPOSED ACTION DESCRIPTION

Project Title: Clarks Fork of the Yellowstone FAS pipeline right-of-way (ROW) easement

Application Date: 4/11/2012

Name, Address and Phone Number:
Gary Hammond
2300 Lake Elmo Drive
Billings, Mt. 59105
(406) 247-2951

Project Location: Clarks Fork of the Yellowstone FAS

Description of Project: Pipeline easement

The pipeline route in the Govt. Lot 6 (SENE) would be 138.1 feet long and covers 0.15 acres (50ft ROW). The route is 69.23 ft from the NW Corner of Lot 6, next to the Sand Creek Canal. The pipeline would be bored under the canal and under this part of Lot 6, and would be constructed under the existing easement in Lot 5 within the right of way. There will be no ground disturbance in Lot 6.

Other groups or agencies contacted or which may have overlapping jurisdiction:

None

PART 2. ENVIRONMENTAL REVIEW

Table 1. Potential impact on physical environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Unique, endangered, fragile, or limited environmental resources				X		
2. Terrestrial or aquatic life and/or habitats				X		
3. Introduction of new species into an area				X		
4. Vegetation cover, quantity and quality				X		X
5. Water quality, quantity and distribution (surface or groundwater)				X		
6. Existing water right or reservation				X		
7. Geology and soil quality, stability and moisture				X		
8. Air quality or objectionable odors				X		
9. Historical and archaeological sites				X		X
10. Demands on environmental resources of land, water, air & energy				X		
11. Aesthetics				X		X

Comments

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided.)

1.4. and 1.8 Surface disturbance from an existing road and past disturbance has eliminated vegetation and any potential cultural or archeological features from the site. Vegetative reclamation of the site will be completed by Williston Basin pipeline, which is the organization requesting the easement.

1.11. Burying the pipeline will maintain the visual aesthetics of the vicinity.

Table 2. Potential impacts on human environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Social structures and cultural diversity				X		
2. Changes in existing public benefits provided by wildlife populations and/or habitat				X		
3. Local and state tax base and tax revenue				X		
4. Agricultural production				X		
5. Human health				X		
6. Quantity and distribution of community and personal income				X		
7. Access to and quality of recreational activities				X		
8. Locally adopted environmental plans & goals (ordinances)				X		
9. Distribution and density of population and housing				X		
10. Demands for government services				X		
11. Industrial and/or commercial activity				X		

Comments

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided as comments.)

Does the proposed action involve potential risks or adverse effects which are uncertain but extremely harmful if they were to occur? No

Does the proposed action have impacts that are individually minor, but cumulatively significant or potentially significant? No

Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action when alternatives are reasonably available and prudent to consider. Include a discussion of how the alternatives would be implemented:

No Action Alternative: Considered but dismissed. Construction of this pipeline will add to the existing pipeline ROW.

Alternative Route Alternative: None

Buried Pipeline Installation: This is the preferred alternative. Construction of the new pipeline will expand the length of the existing 50 foot Williston Basin Pipeline ROW by an additional 138.1 feet which will encompass approximately .15 additional acres.

Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency: Land disturbed by the installation of the pipeline will be reclaimed as per FWP standards.

Individuals or groups contributing to, or commenting on, this EA:

EA prepared by: Gary Hammond

Date Completed: 4/11/2012

Email address for comments: ghammond@mt.gov

Mail comments to: Gary Hammond
2300 Lake Elmo Drive
Billings, MT 59105

Comments due by: April 25, 2012

APPENDIX A

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

(LIST ANY MITIGATION OR STIPULATIONS REQUIRED, OR NOTE "NONE")

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES	NO	
<hr/>	X <hr/>	1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
<hr/>	X <hr/>	2. Does the action result in either a permanent or indefinite physical occupation of private property?
<hr/>	X <hr/>	3. Does the action deprive the owner of all economically viable uses of the property?
<hr/>	X <hr/>	4. Does the action deny a fundamental attribute of ownership?
X <hr/>	<hr/>	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO , skip questions 5a and 5b and continue with question 6.]
X <hr/>	<hr/>	5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
X <hr/>	<hr/>	5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
<hr/>	X <hr/>	6. Does the action have a severe impact on the value of the property?
<hr/>	<hr/>	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO , do not answer questions 7a-7c.]
<hr/>	X <hr/>	
<hr/>	<hr/>	7a. Is the impact of government action direct, peculiar, and significant?

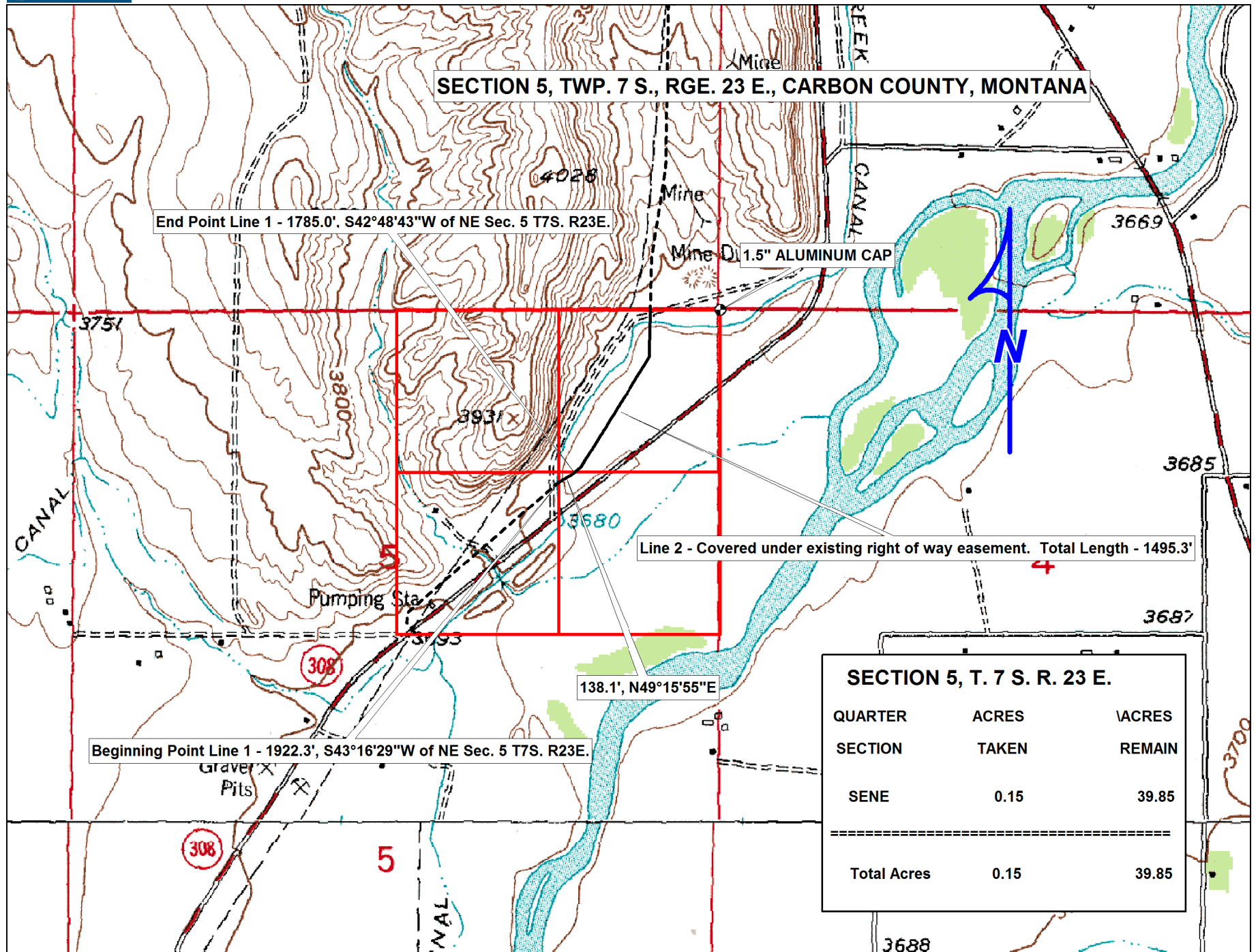
YES

NO

<hr/>	<hr/>	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
<hr/>	<hr/>	7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

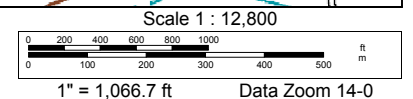
If taking or damaging implications exist, the agency must comply with Section 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.



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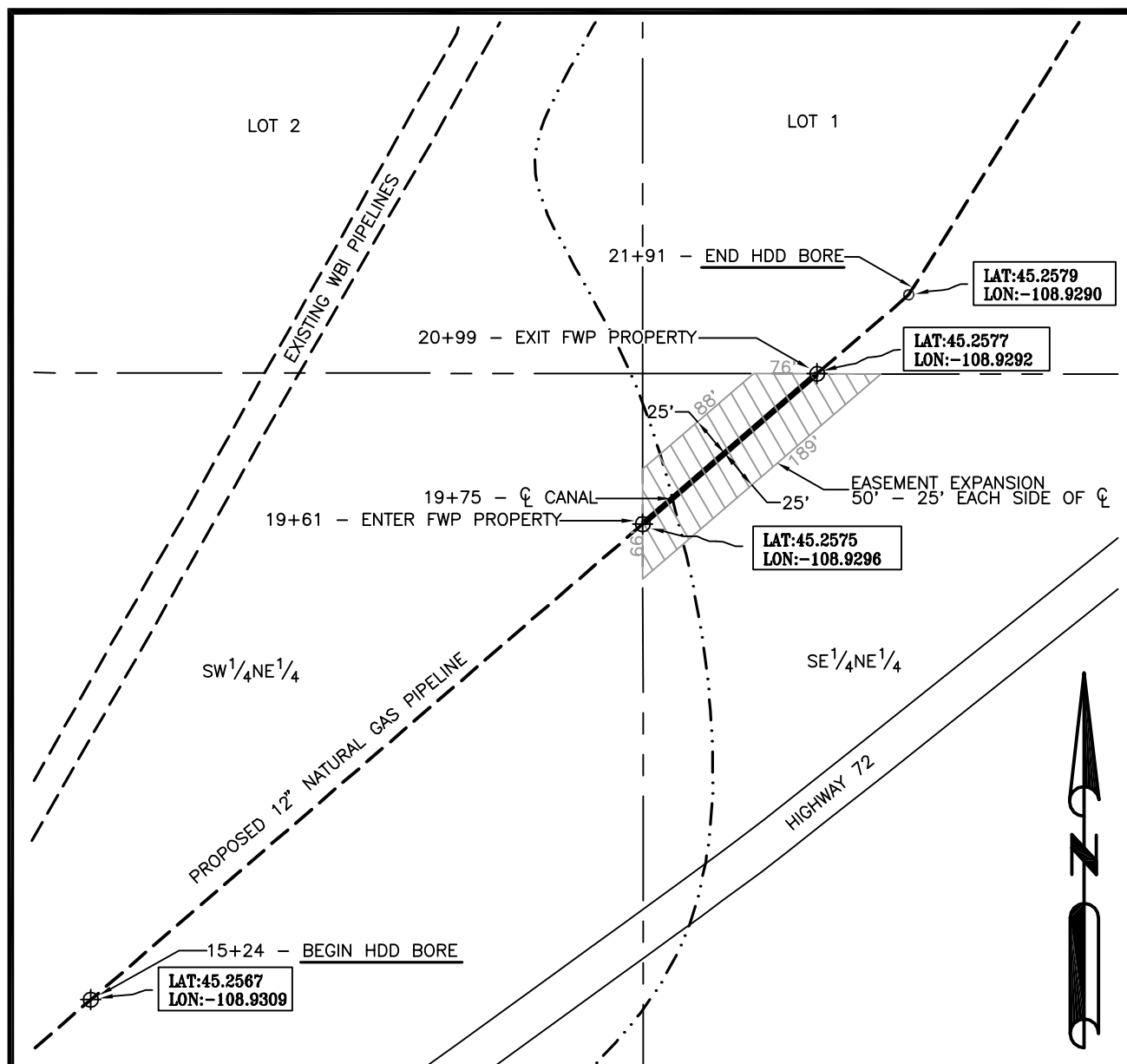



EXHIBIT "A"

ACREAGE

QUARTER	ACRES	TAKEN
SECTION	TAKEN	REMAIN
SENE	0.15	39.85
Total Acres	0.15	39.85

SE 1/4 NE 1/4 SECTION 5,
TWP. 7 S. - RGE. 23 E. P.M.M.
CARBON COUNTY, MONTANA

NO	DATE	BY	REVISION	
 WILLISTON BASIN INTERSTATE PIPELINE COMPANY <i>A Subsidiary of MDU Resources Group, Inc.</i>				
<p align="center">PROPOSED 12" NATURAL GAS PIPELINE CROSSING FISH WILDLIFE AND PARKS PROPERTY</p>				
DATE	DRAWN BY	SCALE	COMP. NO.	DRAWING NO.
3/20/12	JTC	1:100	FWPPERMT	1 OF 1